IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL REVISION APPLICATION NO. 28 OF 2004

Mahendra Bakliwal — Petitioner
Vs.
Arun Waman Jadhav & ors. — Respondents

Petitioner in person.
Mr.Prataprao J. Shinde for respondent no.1.

CORAM: B.H.MARLAPALLE,J.
August 09, 2005.

ORAL ORDER:

1. Heard Mr.Bakliwal, the party in person and Mr.Shinde, learned counsel for respondent no.1 who is the contesting party. This revision application impugns the order passed by the learned 2nd Jt. Civil Judge, Junior Division at Palghar on 8/12/2003 thereby allowing the application filed at Exhibit 41 in RCS No.24 of 1994. The said suit was filed by Smt.Asha Yashwant Jadhav and during the pendency of the suit she expired on 15-9-1997. The present respondent no.1 made an application at Exhibit 41 in the said suit for being impleaded as plaintiff in place of Smt.Asha Jadhav, on the basis of the registered Will dated 27/9/1996. The said application was opposed by the present applicant - defendant no.4 by filing his say on 24/2/2003. The trial Court held that the respondent no.1 had placed on record a copy of the will dated 27/9/1996 which

was registered with the Sub Registrar, Palghar on 27/9/1996 under Registration No.508/1996. This was certainly a prima facie view taken by the Court below who allowed the application. Therefore, the impugned order does not call for any interference.

2. The applicant is right in relying upon the decision of the apex Court in the case of Bhagat Ram v. Suresh **[AIR 2004 SC 436]**. On account of the registration of the Will deed, a presumption as to correctness or regularity of attestation cannot be drawn and these things will have to be proved by adducing evidence before the trial Court by examining the witnesses and the writer of the will, if so required. The trial Court seems to be aware of this position in law and certainly the Will would be the subject matter of evidence that would be adduced before the trial Court. With these clarifications the revision is disposed off and the order impugned does not call for any interference at the hands of this Court. The trial of the Suit is expedited.

(B.H.MARLAPALLE,J.)